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Committee on Economic, Social and Cultural Rights

Concluding observations on the initial report of the Niger*

1. The Committee considered the initial report of the Niger ((E/C.12/NER/1) at its 4th, 5th and 6th meetings (E/C.12/2018/SR.4-6), held on 13 and 14 March 2018, and adopted the present concluding observations at its 28th meeting, held on 29 March 2018.

A. Introduction

2. The Committee welcomes the initial report of the State party despite the considerable delay in its submission. The Committee expresses its appreciation for the constructive dialogue held with the high-level delegation of the State party.

B. Positive aspects

3. The Committee welcomes the State party's ratification, in 2014, of the Optional Protocol to the International Covenant on Economic, Social and Cultural Rights, enabling individuals to submit communications to the Committee in cases of violations of the rights enshrined in the Covenant. It notes with appreciation the expansion of the list of prohibited grounds for discrimination, the increase in sanctions in cases of discrimination and the prohibition of sexual harassment in the workplace in the Labour Code, as well as the measures taken to advance the fight against human trafficking and the adoption of the law on illegal trafficking of migrants.

C. Principal subjects of concern and recommendations

Applicability of the Covenant

4. The Committee notes that, under article 171 of the Constitution, ratified international instruments take precedence over national laws. However, it regrets the lack of information provided on cases in which the Covenant has been invoked before the national courts. It also regrets the lack of information on measures to raise the awareness of the general public, judges, lawyers and other public officials of the rights contained in the Covenant and their justiciability (art. 2 (1)).

5. **The Committee urges the State party, in implementing the national policy on justice and human rights and the related 10-year action plan for 2016–2025, to:**

(a) **Raise public awareness of the rights enshrined in the Covenant and their justiciability;**

* Adopted by the Committee at its sixty-third session (12–29 April 2018).

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(b) **Include economic, social and cultural rights and their justiciability, as well as the content of the Optional Protocol to the Covenant, in the curricula of the Judicial Training College and in training manuals for judges, lawyers and public officials;**

(c) **Include in its next periodic report information on decisions taken by national courts and administrative authorities that invoke the Covenant.**

6. **The Committee draws the State party's attention to its general comment No. 9 (1998) on the domestic application of the Covenant.**

Customary law and human rights

7. The Committee is concerned that the State party's legal framework does not clearly establish that customary law must be compatible with the State party's international human rights obligations.

8. **The Committee recommends that the State party modify its legal framework to make it clear that, in case of conflict, its international human rights obligations take precedence over customary law.**

Allocation of maximum available resources

9. While acknowledging the security, demographic and climatic factors and related challenges facing the State party, and the priority it has placed on public goods and services given the available resources, especially for education, the Committee is nevertheless concerned about the insufficient resources allocated to efforts towards the realization of the rights contained in the Covenant (art. 2 (1)).

10. **The Committee recommends that the State party:**

(a) **Check, on a regular basis, that adequate budgetary resources are allocated to efforts towards the realization of the rights contained in the Covenant;**

(b) **Devote more resources to achieving progressively the full realization of the rights recognized in the Covenant, including in the areas of social protection, health and labour inspection, in accordance with article 2 (1) of the Covenant.**

11. **The Committee draws the State party's attention to its general comment No. 3 (1990) on the nature of States parties' obligations.**

Data collection and analysis

12. The Committee takes note of the recent statistics provided by the State party during the interactive dialogue but regrets that much of the statistical information contained in the State party's initial report does not cover the time period beyond 2012 (art. 2).

13. **The Committee recommends that the State party:**

(a) **Improve the collection, analysis and dissemination of comprehensive and comparable data in order to determine the level of enjoyment of economic, social and cultural rights by disadvantaged and marginalized individuals and groups, including persons living in rural areas, internally displaced persons, ethnic minorities and persons with disabilities;**

(b) **Include, in its next periodic report, the most recent annual comparative statistics available, disaggregated by sex, age, ethnicity, geographical area, disability, religion and any other parameters necessary to measure the progress made in the realization of the rights contained in the Covenant.**

National human rights institution

14. While welcoming the fact that the National Human Rights Commission has been granted category A status, the Committee remains concerned that the State party has not taken any steps to address the concerns and recommendations conveyed in 2017 by the

Subcommittee on Accreditation of the Global Alliance of National Human Rights Institutions (art. 2 (1)).

15. **The Committee recommends that the State party:**

(a) **Ensure that the implementation of the provisions of Act No. 2012-44 of 24 August 2012 concerning the selection and appointment of the members of the National Human Rights Commission guarantees a formal and standardized selection process and a membership that will ensure the institution's independence, in full conformity with the Paris Principles;**

(b) **Take measures to increase the representation of women in the Commission and its staff;**

(c) **To allocate sufficient resources to the Commission without delay to enable it to fully carry out its mandate.**

16. **The Committee draws the State party's attention to its general comment No. 10 (1998) on the role of national human rights institutions in the protection of economic, social and cultural rights.**

Business and human rights

17. While noting the State party's efforts to better manage its natural resources, the Committee is concerned about the negative impact of extractive activities on the environment and on the health and rights of workers, rural communities, smallholder farmers and agro-pastoralists living in areas where the mining of, inter alia, uranium, gold and oil takes place. It is alarmed at: (a) the worrying levels of uranium contamination in the town of Arlit; (b) the heavy water consumption associated with extractive activities and the contamination of water sources; (c) the numerous cases of land expropriation in the public interest in mining areas where the legal guarantees for landowners and persons with land usage rights appear not to have been respected.

18. **The Committee recommends that the State party:**

(a) **Ensure the strict application of the legal framework provided by the Constitution and the legislation concerning the exploitation of natural resources, particularly the provisions aimed at protecting the environment, workers' health and the rights of the communities living in mining areas;**

(b) **Conduct independent investigations into the impact of extractive activities on the enjoyment of economic, social and cultural rights prior to and during the implementation of projects;**

(c) **Conduct regular inspections of mining sites and allocate adequate technical and financial resources to the entities responsible for performing such inspections;**

(d) **Step up its efforts to guarantee the quality of water sources, including by establishing the liability of companies and individuals involved in mining activities that lead to the pollution of water sources;**

(e) **Respect the legal guarantees for persons whose property has been expropriated, be they landowners or persons with land usage rights, and ensure the payment of adequate compensation and damages, which should be commensurate with the actual value of the land.**

19. **The Committee draws the State party's attention to its general comment No. 24 (2017) on State obligations under the International Covenant on Economic, Social and Cultural Rights in the context of business activities and general comment No. 15 (2002) on the right to water.**

Non-discrimination

20. While recognizing that the constitutional and legislative framework contains anti-discrimination provisions, including in the areas of employment, health and education, the

Committee is concerned about the lack of a comprehensive anti-discrimination law. It is also concerned about descent-based discrimination against former slaves and their descendants, which hinders their enjoyment of a number of the rights enshrined in the Covenant, such as the right to education (art. 2 (2)).

21. **The Committee recommends that the State party:**

(a) **Adopt a comprehensive anti-discrimination law, prohibiting all direct and indirect discrimination on any grounds, including descent;**

(b) **Adopt policies and programmes, including temporary measures, to guarantee former slaves and their descendants enjoyment of the rights contained in the Covenant.**

22. **The Committee draws the State party's attention to its general comment No. 20 (2009) on non-discrimination in economic, social and cultural rights.**

Persons with disabilities

23. While taking note of the measures intended to benefit persons with disabilities, including the provisions of article 10 of the Labour Code reserving 5 per cent of posts for persons with disabilities and the introduction of inclusive classes, the Committee is concerned that children with disabilities do not enjoy equal access to education and that very few persons with disabilities are gainfully employed. It is also concerned about the lack of progress in making public goods and services more accessible to persons with disabilities (art. 2 (2)).

24. **The Committee recommends that the State party:**

(a) **Guarantee reasonable accommodation for persons with disabilities in law and in practice;**

(b) **Allocate more resources to improving access to education, including inclusive education, for children with disabilities;**

(c) **Monitor the application of the special measures provided for in the Labour Code so as to promote the employment of persons with disabilities;**

(d) **Adopt a timeline and allocate the necessary resources for improving the accessibility and availability of public goods and services for persons with disabilities.**

Gender equality

25. The Committee takes note of the measures adopted to achieve equality between men and women under the relevant national policy. However, it is concerned that:

(a) Women continue to face discrimination in many areas;

(b) Customary law, which perpetuates discrimination against women and girls with regard to, inter alia, property rights, inheritance and marriage, continues to prevail;

(c) The number of cases of violence against women, including domestic and sexual violence, remains high (art. 3).

26. **The Committee recommends that the State party, in implementing the national action plan on gender equality:**

(a) **Continue to take measures to effectively prevent all forms of discrimination against women and girls, including in inheritance and access to land, and to address customary practices and patriarchal attitudes and attitudes based on stereotypes;**

(b) **Conduct information campaigns to raise public awareness of women's rights and of the fact that some practices rooted in customary law are detrimental to them;**

(c) **Take measures to promote the full participation of women in decision-making in all areas of political and public life;**

(d) **Ensure that cases of violence against women lead to thorough and impartial proceedings, that the perpetrators are prosecuted and punished in proportion to the seriousness of their actions and that victims obtain redress and have access to rehabilitation services.**

27. **The Committee draws the State party's attention to its general comment No. 16 (2005) on the equal right of men and women to the enjoyment of all economic, social and cultural rights.**

Internally displaced persons and refugees

28. While commending the State party for hosting refugees from neighbouring countries and taking note of targeted measures such as the free distribution of grain for internally displaced persons and refugees, the Committee is concerned about the lack of comprehensive legislation and national policies to assist these persons, as well as their limited access to basic social services (arts. 2 and 11).

29. **The Committee recommends that the State party:**

(a) **Adopt a legislative framework specifically for internally displaced persons and refugees;**

(b) **Improve access to basic social services for internally displaced persons and refugees, including access to health and education services and other public services.**

Persons belonging to minority groups

30. The Committee notes with interest the constitutional provisions safeguarding the rights of persons belonging to ethnic minorities. However, it notes that there is no comprehensive strategy for their enforcement (art. 15).

31. **The Committee recommends that the State party adopt a comprehensive strategy setting out specific and targeted measures to improve the access of minority groups to the rights enshrined in the Covenant, including adequate access to education, employment, health and water.**

Right to work

32. The Committee remains concerned about the low rate of participation of women in the labour market, despite the progress made by the State party in that connection (art. 6).

33. **The Committee recommends that the State party take measures to promote the empowerment of women, such as:**

(a) **Pursuing employment policies that provide for adequate training and retraining programmes to facilitate women's access to the labour market and to professions and careers traditionally dominated by men;**

(b) **Introducing a gender quota in the public sector and in training programmes for candidates preparing for a career in the public administration;**

(c) **Addressing effectively sociocultural barriers, such as expectations in terms of family responsibilities, that might affect women's chances of finding work.**

Minimum wage

34. Despite the State party's efforts, the Committee notes with concern that the minimum wage has not changed since 2012 and that it is not sufficient to ensure a decent standard of living for workers and their families (art. 7).

35. **The Committee recommends that the State party take legislative and administrative measures to ensure that the minimum wage is periodically reviewed and set at a level sufficient to provide all workers and their families with a decent standard of living.**

36. **The Committee draws the State party's attention to its general comment No. 23 (2016) on the right to just and favourable conditions of work.**

Informal sector

37. While taking note of the measures adopted by the State party to facilitate the transition from informal to formal employment, the Committee is concerned about the predominance of the informal economy, which accounts for 70 per cent of jobs (arts. 6, 7 and 9).

38. **The Committee recommends that the State party step up its efforts to monitor and combat violations of economic, social and cultural rights in the informal sector and, at the same time, gradually integrate workers from the informal economy into the formal labour force, including by strengthening the role of the Centre for Business Procedures and the policies and measures in place to create an enabling environment for the development of the formal private sector.**

39. **The Committee draws the State party's attention to International Labour Organization (ILO) recommendation no. 204 (2015) concerning the transition from the informal to the formal economy.**

Labour inspection

40. The Committee is concerned that the State party's labour inspection system lacks the financial and human resources needed to fulfil its mandate effectively and that it does not cover the informal sector. It is also concerned about the lack of information on the inspection of companies with fewer than 20 staff, which make up the majority of places of work in the State party (art. 7).

41. **The Committee urges the State party to take steps to ensure that the mandate of the labour inspectorate covers the informal economy, that the labour inspectorate focuses its efforts on enforcing labour legislation and that it is provided with adequate resources, including a sufficient number of properly trained inspectors.**

Social security

42. The Committee is concerned about the very limited coverage offered by the social protection system, despite the State party's efforts in that regard (art. 9).

43. **The Committee urges the State party to step up its efforts to introduce, as quickly as possible, social protection floors guaranteeing a minimum level of benefits to enable the most disadvantaged and marginalized groups to enjoy a decent standard of living, including those in the informal economy. In that connection, it recommends that the State party speed up the adoption of legislative measures aimed at establishing a social protection system. The Committee draws the State party's attention to its general comment No. 19 (2007) on the right to social security and its statement, adopted in 2015, on social protection floors — an essential element of the right to social security and of the sustainable development goals.**

Early marriage

44. The Committee is concerned at the high number of early marriages of girls owing to the practice being permitted under customary law. It also deplores the fact that, despite the announcement made by the State party in 2014 in its combined periodic reports (2013–2014) concerning the implementation of the African Charter on Human and Peoples' Rights, legislative reforms to end early marriage have not yet been adopted and that the decree on the protection, support and care of girls in school makes no mention of the issue (art. 10).

45. **The Committee recommends that the State party take steps to outlaw and prevent child marriages contracted under customary law, including by adopting legislative and administrative measures and conducting culturally sensitive awareness-raising campaigns to encourage the abandonment of the practice.**

Economic exploitation of children

46. The Committee is concerned about the large number of children who are economically exploited in slaughterhouses, the agricultural sector and domestic service, often in hazardous conditions, including mines. It is also concerned that the impoverished conditions in which many families live and limited access to education only increase the risk of the economic exploitation of children (art. 10).

47. **The Committee recommends that the State party:**

(a) **Strengthen its legislation prohibiting child labour and foster its implementation, including by increasing the number of labour inspections, especially in the mining and agricultural sectors and in slaughterhouses;**

(b) **Ensure that persons who employ children are prosecuted and punished;**

(c) **Adopt measures to rehabilitate child labourers and to guarantee them access to education, including by strengthening support measures for poor families in order to keep children in school;**

(d) **Undertake a national survey on the nature and extent of child labour.**

Right to food

48. The Committee welcomes the adoption by the State party of a number of measures to guarantee the food and nuritional security of the population. It is concerned, however, that a large part of the population is affected by food insecurity and malnutrition. The Committee is also concerned about the lack of related disaggregated data (art. 11).

49. **The Committee recommends that the State party:**

(a) **Adopt a framework law on the right to food;**

(b) **Implement fully its 3N ("Nigerians Nourishing Nigerians") initiative and related strategies, ensuring that local and beneficiary communities and civil society are involved in guiding those strategies and in monitoring their implementation;**

(c) **Step up its efforts to improve the productivity of smallholder farmers by facilitating their access to appropriate technologies and to markets in order to raise incomes in rural areas;**

(d) **Collect data on the prevalence of hunger and malnutrition, disaggregated by sex, age and rural/urban area.**

50. **The Committee draws the State party's attention to its general comment No. 12 (1999) on the right to adequate food, and to the Voluntary Guidelines to Support the Progressive Realization of the Right to Adequate Food in the Context of National Food Security, adopted in 2004 by the States members of the Food and Agriculture Organization of the United Nations.**

Right to health

51. While welcoming the fact that certain health services are provided free of charge, and despite improvements in a few health indicators, the Committee is concerned that:

(a) Infant and maternal mortality remain high;

(b) Free health services are not available for the majority of the population, in particular, the most vulnerable groups, and less than 5 per cent of the population has health insurance coverage.

(c) The budgetary resources allocated to the health sector and access to health services are very limited, especially in rural areas (art. 12).

52. **The Committee recommends that the State party, in implementing the National Health Policy 2016–2035:**

(a) **Take urgent measures to reduce the high rate of maternal and infant mortality and to ensure that births are assisted by qualified staff;**

(b) **Expand the segments of the population that have access to free health services, especially the most vulnerable groups;**

(c) **Expedite the adoption of legislation on the development of universal health coverage, including a non-contributory regime for vulnerable groups;**

(d) **Expedite the achievement of the target set out in the Abuja Declaration relating to the allocation of resources to the health sector and continue its efforts to ensure the accessibility, availability and quality of health services, particularly in rural areas.**

53. **The Committee draws the State party's attention to its general comment No. 14 (2000) on the right to the highest attainable standard of health.**

Right to sexual and reproductive health

54. The Committee is concerned about the high number of teenage pregnancies, which are due in part to the inaccessibility and unavailability of appropriate sexual and reproductive health services and to the difficulties faced by women in obtaining access to adequate information on sexual and reproductive health, including family planning, and contraception (art. 12).

55. **The Committee recommends that the State party:**

(a) **Step up its efforts to ensure the availability and accessibility of sexual and reproductive health services, including access to affordable, safe and effective contraceptives and emergency contraceptives, including for adolescents and particularly in rural areas;**

(b) **Expand and improve comprehensive, age-appropriate sexual and reproductive health education, including on family planning, for both sexes in primary and secondary schools.**

56. **The Committee draws the State party's attention to its general comment No. 22 (2016) on the right to sexual and reproductive health.**

Right to education

57. The Committee takes note of the comprehensive information provided by the delegation of the State party on the education-related challenges facing the Niger and welcomes the comprehensive approach taken to overcoming them. However, the Committee is concerned at:

(a) The persistence of inequalities in access to education affecting children living in rural areas and children with disabilities in particular;

(b) The high dropout rate in primary and secondary schools, especially among girls, owing to, inter alia, early marriage and the perception that girls' education is a burden on families;

(c) The poor quality of teaching on account of the shortage of qualified teachers and the lack of teaching materials and infrastructure, particularly in rural areas;

(d) The limited access to water and sanitation facilities in schools;

(e) The high illiteracy rate, especially in rural areas, in particular among women (arts. 13 and 14).

58. **The Committee recommends that the State party:**

(a) **Strengthen various measures and programmes in order to address the problem of access to schools for children living in rural areas;**

(b) Take urgent measures to reduce the high dropout rate in primary and secondary schools, in particular among girls;

(c) Improve the quality of teaching provided and invest more in teacher training, in particular by increasing the capacity of the teacher training college so as to provide teachers in need of capacity-building with adequate training;

(d) Step up its efforts to improve school infrastructure and learning materials, especially in rural areas, and ensure that all schools have adequate water supply and sanitation facilities and, in particular, separate bathrooms for girls and boys;

(e) To intensify measures to execute the national policy on literacy and non-formal education;

(f) Expedite the incorporation of human rights training into all levels of the education system.

59. **The Committee draws the State party's attention to its general comment No. 13 (1999) on the right to education.**

Cultural rights

60. While noting that the introduction of mother-tongue teaching in the early years of schooling is in the pilot phase, the Committee regrets the lack of information on other measures taken to promote the cultural diversity of the State party (art. 15).

61. **The Committee recommends that the State party:**

(a) Adopt additional measures to promote and preserve the culture of the various cultural, ethnic and linguistic groups making up its population;

(b) Provide not only teaching in the children's mother tongue but also school curricula and a cultural context that are appropriate and take into account the specific characteristics of the linguistic and ethnic groups in question.

62. **The Committee draws the State party's attention to its general comment No. 21 (2009) on the right of everyone to take part in cultural life.**

D. Other recommendations

63. **The Committee recommends that the State party take fully into account its obligations under the Covenant and ensure the full enjoyment of the rights enshrined therein in the implementation of the 2030 Agenda for Sustainable Development at the national level, with international assistance and cooperation when needed. Achievement of the Sustainable Development Goals would be significantly facilitated by the State party's establishing independent mechanisms to monitor progress and treating beneficiaries of public programmes as rights holders who can claim entitlements. Implementing the Goals on the basis of the principles of participation, accountability and non-discrimination would ensure that no one is left behind.**

64. **The Committee recommends that the State party take steps to progressively develop and apply appropriate indicators on the implementation of economic, social and cultural rights, in order to facilitate the assessment of progress achieved by the State party in complying with its obligations under the Covenant for various segments of the population. In that context, the Committee refers the State party to, inter alia, the conceptual and methodological framework on human rights indicators developed by the Office of the United Nations High Commissioner for Human Rights (see HRI/MC/2008/3).**

65. **The Committee requests the State party to disseminate the present concluding observations widely at all levels of society, including at the national and regional levels, in particular among parliamentarians, public officials and judicial authorities, and to inform the Committee, in its next periodic report, about the steps taken to implement**

them. The Committee encourages the State party to engage with the national human rights institution, non-governmental organizations and other members of civil society in the follow-up to the present concluding observations and in the process of consultation at the national level prior to the submission of its next periodic report.

66. In accordance with the procedure on follow-up to concluding observations adopted by the Committee, the State party is requested to provide, within 18 months of the adoption of the present concluding observations, information on the progress made in implementing the recommendations made by the Committee in paragraphs 41 (labour inspection), 45 (early marriage) and 52 (c) (right to health) above.

67. The Committee requests the State party to submit its second periodic report, to be prepared in accordance with the reporting guidelines adopted by the Committee in 2008 (E/C.12/2008/2), by 31 March 2023. It further invites the State party to update, as appropriate, its common core document in accordance with the harmonized guidelines on reporting under the international human rights treaties (see HRI/GEN/2/Rev.6, chap. 1).